IN THE

ARIZONA COURT OF APPEALS

DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

RENNELL DESHAWN COLLIER,
Appellant.

No. 2 CA-CR 2018-0031
Filed October 7, 2019

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.19(e).

Appeal from the Superior Court in Pima County
No. CR20160976001
The Honorable Casey F. McGinley, Judge

AFFIRMED

COUNSEL

Mark Brnovich, Arizona Attorney General
Joseph T. Maziarz, Chief Counsel
By Mariette S. Ambri, Assistant Attorney General, Tucson
Counsel for Appellee

Emily Danies, Tucson
Counsel for Appellant

MEMORANDUM DECISION

Judge Eckerstrom authored the decision of the Court, in which Presiding Judge Eppich and Judge Espinosa concurred.

E C K E R S T R O M, Judge:

¶1 Rennell Collier appeals from his convictions for aggravated assault, kidnapping, and possession of a deadly weapon by a prohibited possessor. Collier argues the trial court erred in admitting evidence obtained through an unconstitutional search and interrogation. He also argues the court erred by failing to reinstruct the jury on the proper burden of proof after the state provided an incorrect standard during closing arguments.

Factual & Procedural Background

¶2 "We view the evidence in the light most favorable to sustaining the convictions." *State v. Gay*, 214 Ariz. 214, ¶ 2 (App. 2007). In February 2016, police responded to a 9-1-1 call from a Tucson hotel employee reporting an argument between a woman and a man involving a gun. Responding officers encountered Collier and the victim, T.V., inside a hotel room identified by the front-desk clerk. T.V. appeared nervous and scared.

¶3 T.V. testified at trial that on the day of the incident, she had been staying at a hotel with a friend. T.V. and Collier began to communicate via text message. T.V also posted an advertisement for her prostitution services, and at some point she planned to meet a customer at her hotel. She did not know the identity of her customer when she made the date.

¶4 When T.V. left her hotel room to meet the customer, she instead found Collier. She did not expect to see him because, as a result of the tone of the texts she had exchanged with him, she did not want him to know and had not told him where she was staying. Collier grabbed T.V., pulled out a gun, cocked it, pressed it into her stomach, and began to speak to her in an upset manner, including telling her that she was "going to learn to respect him." He began to lead T.V. toward the hotel gate, but when T.V.'s friend, who was sitting in a truck in the parking lot, started the truck, Collier directed T.V. toward her hotel room instead, holding his gun by his

side between himself and T.V. On the way to the room, Collier told T.V. he would shoot her in the back if she ran or screamed.

¶5 After they entered the room, Collier turned off the lights and directed T.V. to sit on the couch. He read through the text messages on her phone, growing increasingly angry. Collier held his gun in his hand during this encounter. Through a window with slatted blinds, the two of them saw T.V.'s friend walk by the room. Collier told T.V. to let her friend into the room; when T.V. refused, Collier directed her to text her friend and tell him everything was okay. T.V. testified she had begged Collier to not hurt her while he talked angrily to her, and she believed he was "trying to hype himself up . . . trying to build up enough courage to do what it [was] he wanted to do." At some point, T.V.'s friend texted her "you're good" and "everything's okay." Shortly afterward, the police knocked on the hotel door, so Collier put the gun under the mattress and answered the door.

¶6 The state also presented as evidence the text message exchange between T.V. and Collier during the day leading up to the incident. Among these messages were Collier's requests to learn where T.V. was staying, her refusal to tell him, a threat that she could not hide from him, back-and-forth about whether he was going to beat her up, and several messages indicating she was scared. Near the end of their exchange, Collier insinuated that the potential for criminal charges would not deter him from doing "whatever it was that he wanted to do" to T.V. and that T.V.'s friend could not save her. T.V. testified she did not interpret these messages as joking.

¶7 The state charged Collier with aggravated assault with a firearm, kidnapping, and possession of a deadly weapon by a prohibited possessor. Following a four-day trial, the jury found him guilty as charged. The trial court sentenced him to concurrent prison terms, the longest of which is ten and a half years. Collier timely filed this appeal. We have jurisdiction pursuant to A.R.S. §§ 12-120.21(A)(1), 13-4031, and 13-4033(A). For the reasons that follow, we affirm.

Discussion

Motion to Suppress

¶8 Before trial, Collier moved to suppress evidence that his gun was discovered in the hotel room, arguing officers had collected it unconstitutionally. Specifically, Collier argued his detention and a frisk, which was made pursuant to *Terry v. Ohio*, 392 U.S. 1 (1968), were unlawful because they were involuntary and police had no reasonable suspicion of

criminal activity at the time they detained him and conducted the frisk. He further argued the officers' questions regarding the location of the gun, posed before officers informed him of his rights as required by *Miranda v. Arizona*, 384 U.S. 436 (1966), constituted unlawful interrogation.

¶9 The parties presented the following facts at the suppression hearing. We consider only the evidence presented at the hearing, and we view the facts in the light most favorable to upholding the ruling below. *State v. Manuel*, 229 Ariz. 1, ¶ 11 (2011). Tucson Police Department officers responded to a 9-1-1 call from a hotel's front-desk employee reporting that a man and woman were arguing and the man had a gun. The information had been conveyed to the hotel employee by an anonymous witness, who officers were eventually able to locate and briefly question, but who refused to stay or provide identifying information. The witness did not indicate whether the gun had been holstered during the argument.

¶10 Once officers arrived at the scene, the front-desk clerk directed them to the relevant hotel room, which was registered only to T.V. Officer Bivens knocked and announced, "Tucson Police." Collier answered the door; T.V. stood "directly behind him." Bivens testified that T.V. "looked pretty shaken up." However, Officer Leon testified that he had noted no signs of distress or injury in either Collier or T.V. Bivens asked Collier to step outside, and he complied. Bivens then asked T.V. if she was okay, and she motioned for him to enter the hotel room, which he did.

¶11 Other officers remained in the hallway with Collier. Officer Leon immediately performed a *Terry* frisk on Collier "due to the information that there was a gun involved." Collier was cooperative during the frisk. Leon testified Collier had not been in handcuffs but confirmed that he was "not free to leave" at that point. After completing the frisk and finding no weapons, Leon asked Collier where the gun was located. Leon testified that, because there were "officers inside the room" and he did not know who else was in the room, he had "wanted to know right away where the gun was." Collier told the officer the gun was under the bed inside the room and gave permission to retrieve the gun. Leon passed the information to officers inside the room, then read Collier his *Miranda* rights. Collier admitted having the gun during his argument with T.V.

¶12 Inside the hotel room, officers conducted a welfare check to ensure nobody inside was in imminent danger or injured. Upon learning its location from Officer Leon, officers found the gun underneath the mattress and ascertained it was loaded. Leon testified that, after he had finished interacting with Collier, he spoke with T.V., who appeared "very

nervous and scared" and reported that Collier had stated he was going to kill her.

¶13 At the end of the hearing, the trial court denied Collier's motion to suppress, reasoning the officers "had full authority to check to ensure that their safety was being protected under Terry."[1] The court further reasoned Collier was "not in custody for purposes of *Miranda*" when Officer Leon asked him where the gun was located, and there was "no interrogation for purposes of *Miranda* because there was no crime afoot that they knew of" and the officers repeatedly stated "they didn't have probable cause to believe a crime had occurred." The court also reasoned that Leon's questions after frisking Collier amounted to "trying to find the gun to make sure everybody was safe," and because Leon did not yet have knowledge a crime had occurred when he asked his question, "it could not be a *Miranda* situation."

¶14 On appeal, Collier renews his arguments that police seized the gun as a result of an unconstitutional search and questioning. He argues the trial court erred in denying his motion to suppress because, first, the officers "lacked reasonable suspicion to conduct a *Terry* frisk," and, second, they questioned him about the location of the gun prior to reading him his *Miranda* rights. The state argues the *Terry* frisk was legal, that no *Miranda* violation occurred, and that even if a violation did occur, suppression of physical evidence is not a remedy for a *Miranda* violation.[2]

¶15 We review the denial of a motion to suppress for an abuse of discretion. *Manuel*, 229 Ariz. 1, ¶ 11. We review *de novo* the trial court's legal conclusions, including the constitutionality of the frisk and whether Collier was in custody for the purposes of *Miranda*. *State v. Primous*, 242 Ariz. 221, ¶ 10 (2017). We will affirm the court's ruling if it was legally correct for any reason, even if our reasoning is distinct. *See State v. Carlson*, 237 Ariz. 381, ¶ 7 (2015).

---

[1]Collier renewed his motion to suppress the following month, and after a second hearing in which he presented no new evidence, the court again denied the motion.

[2]We do not address the state's various arguments that the gun was discovered through a constitutional search of the room because Collier limits his appeal to the legality of the frisk and the questioning; he does not directly challenge the legality of the search.

Constitutionality of the Terry Frisk

¶16 The Fourth Amendment to the United States Constitution protects against unreasonable searches and seizures. *State v. Allen*, 216 Ariz. 320, ¶ 9 (App. 2007). Consistent with the Fourth Amendment, a police officer may briefly stop an individual for investigative purposes if the officer "reasonably suspects that the person apprehended is committing or has committed a criminal offense." *Arizona v. Johnson*, 555 U.S. 323, 326 (2009). Reasonable suspicion exists when, considering the totality of the circumstances, officers "have a particularized and objective basis for suspecting the particular person stopped of criminal activity." *United States v. Cortez*, 449 U.S. 411, 417-18 (1981). "Particularized suspicion is a common sense assessment that officers make every time they conduct an investigatory stop." *State v. Evans*, 237 Ariz. 231, ¶ 12 (2015).

¶17 When police respond to a phone call reporting potentially illegal activity, the call must bear sufficient indicia of reliability to form the basis for officers' reasonable suspicion to initiate a *Terry* detention. *Navarette v. California*, 572 U.S. 393, 398-400 (2014) (finding anonymous 9-1-1 call sufficient basis for officer's reasonable suspicion); *Florida v. J.L.*, 529 U.S. 266, 272 (2000) (reasonable suspicion requires that tip "be reliable in its assertion of illegality, not just in its tendency to identify a determinate person"); *State v. Canales*, 222 Ariz. 493, ¶ 16 (App. 2009). Factors tending to show reliability include descriptions or statements that suggest eyewitness knowledge, contemporaneous reporting, and the use of the 9-1-1 emergency system, which increases caller accountability because calls are traceable and recorded and false reports are punishable by imprisonment and fine. *Navarette*, 572 U.S. at 399-401.

¶18 Construing the facts in the light most favorable to upholding the trial court's ruling, the officers in this case had reasonable suspicion to briefly detain Collier for further investigation. As Collier emphasizes, the person who sought emergency assistance, the hotel clerk, was not the person who witnessed the suspicious behavior in the parking lot. But, the hotel clerk did interact with that witness and thereafter placed sufficient trust in him to call 9-1-1 based on the information he had provided. Given the negative effects on the hotel's business if guests are unnecessarily disturbed by police, these facts entitled the officers to place some credence in the information conveyed by the clerk. Furthermore, that information was sufficiently detailed to identify the specific hotel room to be investigated. And, the room was occupied by one woman and one man, with the woman displaying a worried demeanor. These circumstances

reinforced the reliability of the tipster's account and suggested eyewitness knowledge.

¶19 Lastly, the contents of the tip entitled officers to investigate whether a crime may have been committed. The hotel employee reported not merely that a man was carrying a gun, but that he was arguing with a woman and that a gun was involved. *See Canales*, 222 Ariz. 493, ¶ 16 (sufficiency of anonymous tip turns on reliability of report's assertion of illegality). Under these circumstances, we agree with the trial court that the officers had reasonable suspicion to detain Collier for further investigation.

¶20 Likewise, the officers were entitled under *Terry* to conduct an investigation regarding any weapon at the scene to protect themselves in a potentially dangerous situation. Courts have found frisks and protective sweeps valid under *Terry* in a variety of situations presenting potential danger to law enforcement officers. *See, e.g.*, *Adams v. Williams*, 407 U.S. 143, 144, 146 (1972) (limited weapons search appropriate when officer, responding to reliable tip that suspect was carrying narcotics and concealed weapon, reasonably concerned for safety); *State v. Vasquez*, 167 Ariz. 352, 354 (1991) (search of jacket upheld because close-range investigations make officers "particularly vulnerable in part *because* a full custodial arrest has not been effected, and the officer must make a quick decision as to how to protect himself and others from possible danger" (quoting *Michigan v. Long*, 463 U.S. 1032, 1052 (1983))); *State v. Johnson*, 220 Ariz. 551, ¶¶ 7-10 (App. 2009) (pat-down valid under *Terry* when police reasonably concluded suspect, admitted felon carrying police scanner and dressed in gang-related clothing, may have been armed and dangerous); *State v. Garcia Garcia*, 169 Ariz. 530, 532 (App. 1991) ("[W]e find that any reasonable fear for safety is enough to warrant a search under *Terry* and *Michigan v. Long* . . . .").

¶21 "The officer need not be absolutely certain that the individual is armed; the issue is whether a reasonably prudent man in the circumstances would be warranted in the belief that his safety or that of others was in danger." *Terry*, 392 U.S. at 27; *see also Adams*, 407 U.S. at 146 ("So long as the officer is entitled to make a forcible stop, and has reason to believe that the suspect is armed and dangerous, he may conduct a weapons search limited in scope to this protective purpose."); *State v. Lamb*, 116 Ariz. 134, 136-37 (1977) (officer "justified in conducting a pat-down search for weapons" based on witness reports that defendant possessed gun and drugs, together with officer's observation that defendant appeared "extremely intoxicated" and had bulging pockets).

¶22 Here, the officers responded to a report of an argument involving a gun. Upon encountering Collier and T.V., who appeared frightened and therefore did not dispel the concerns raised by the 9-1-1 call, it was reasonable for the officers to conduct a frisk of Collier to ensure their safety. Moreover, the officers searched for and seized the gun with Collier's consent. *See State v. Serna*, 235 Ariz. 270, ¶ 27 (2014) (officers need not justify a frisk with facts sufficient to establish a reasonable suspicion of criminal activity" if they have consent).

Constitutionality of Officers' Pre-Miranda Questioning

¶23 "The Fifth Amendment to the U.S. Constitution shields all persons from compulsory self-incrimination." *State v. Maciel*, 240 Ariz. 46, ¶ 10 (2016). To protect this right, police officers must administer *Miranda* warnings before conducting custodial interrogation of a suspect. *Miranda*, 384 U.S. at 444. "*Miranda* custody requires not only curtailment of an individual's freedom of action, but also an environment that 'presents the same inherently coercive pressures as the type of station house questioning at issue in *Miranda*.'" *Maciel*, 240 Ariz. 46, ¶ 12 (quoting *Howes v. Fields*, 565 U.S. 499, 509 (2012)).

¶24 We need not determine whether Collier was in custody for purposes of *Miranda* because, given their reasonable and substantial concerns for public and officer safety, the officers were not required to administer *Miranda* warnings before locating the gun. "Voluntary responses to 'questions necessary to secure [the officer's] own safety or the safety of the public' may be admitted in court despite the lack of *Miranda* warnings." *In re Roy L.*, 197 Ariz. 441, ¶ 15 (App. 2000) (alteration in *Roy L.*) (quoting *New York v. Quarles*, 467 U.S. 649, 659 (1984)); *see also Quarles*, 467 U.S. at 657 ("[T]he need for answers to questions in a situation posing a threat to the public safety outweighs the need for the prophylactic rule protecting the Fifth Amendment's privilege against self-incrimination.").

¶25 Collier argues the officer-safety exception established in *Quarles* and *Roy L.* does not apply here. We disagree. Officer Leon testified on direct examination, "[T]he first question I asked is where is the gun because I had officers inside the room . . . and I wanted to know right away where the gun was." He further testified, on cross-examination, that the nature of the call to which they had responded—an argument involving a gun—is "considered a great officer safety risk." And on redirect, he testified, "Due to information there was a gun involved, it's potentially a lethal situation where there's a great risk to the possible victim and to officers responding." Thus, the trial court possessed an ample record to

support its conclusion that Leon's query stemmed from a reasonable concern for officer safety.

Jury Instructions on Reasonable-Doubt Standard

¶26 During closing arguments, Collier used a chart to explain to jurors that the reasonable-doubt standard was not met if the jurors believed it was only possible or highly probable that he was guilty. During the state's rebuttal, the prosecutor argued:

> The Judge isn't going to tell you that if you think that something is highly probable that that means that it is insufficient for a guilty verdict. That's not the way this works. He's going to instruct you . . .
>
> . . . that if you are . . .
>
> . . . firmly convinced of the defendant's guilt, then he is guilty. The words that are on that board, that's not what you're instructed on because that's not the law.

¶27 The trial court refused to hear Collier's contemporaneous objection, which defense counsel attempted to make in the middle of the state's argument. Immediately after the state concluded its rebuttal, the court verbally delivered its final instructions to the jury. These included the instruction that:

> The State has the burden of proving the defendant guilty beyond a reasonable doubt. In civil cases, it is only necessary to prove that a fact is more likely true than not or that its truth is highly probable.
>
> In criminal cases such as this, the State's proof must be more powerful than that. It must be beyond a reasonable doubt.
>
> Proof . . . beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt.

> There are very few things in this world that we know with absolute certainty, and in criminal cases, the law does not require proof that overcomes every doubt.
>
> If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find him guilty.
>
> If, on the other hand, you think there's a real possibility that he is not guilty, you must give him the benefit of the doubt and find him not guilty.[3]

After releasing the jury for deliberations, the court allowed Collier to state his objection. At that time, Collier argued the prosecutor had misstated the law by incorrectly arguing that Collier's description of the reasonable-doubt standard was not reflected in the instruction.

¶28 The trial court told Collier it had overruled "what [it] knew was an objection as to a misstatement of the law" because, although the issue was "rather close" and the state's language was "inartfully worded," the way the state "went on to explain it solved the issue." Specifically, the court explained that "[a] strict reading of what [the state] said is that [the court is] not going to instruct [the jury] the way that [Collier] argued it." Essentially, the court reasoned that both Collier's chart and the state's discussion of the chart constituted argument, and the state correctly told the jury it must follow the court's instruction regarding the reasonable-doubt standard, then correctly gave the firmly convinced standard required by *State v. Portillo*.[4]

¶29 In response, Collier argued the state "made it sound like there wasn't a distinction" between highly probable and firmly convinced, which was a misstatement of law. Collier then requested the trial court provide a curative instruction to highlight that "highly probable is insufficient or it's less than proof beyond a reasonable doubt." The court declined Collier's request, noting that "its properly worded instruction and the actions by [the

---

[3]The court also provided these instructions to the jury in written form.

[4]182 Ariz. 592 (1995).

state] after to highlight that the instruction requires that [the jury] be firmly convinced" cured the state's mistake.

¶30 On appeal, Collier renews his argument. We review the denial of a requested jury instruction for an abuse of discretion. *State v. Johnson*, 212 Ariz. 425, ¶ 15 (2006). Because Collier preserved his objection, we review for harmless error. *State v. Henderson*, 210 Ariz. 561, ¶ 18 (2005). "Harmless error review places the burden on the state to prove beyond a reasonable doubt that the error did not contribute to or affect the verdict or sentence." *Id*. Put another way, "the question 'is not whether, in a trial that occurred without the error, a guilty verdict would surely have been rendered, but whether the guilty verdict actually rendered in this trial was surely unattributable to the error.'" *State v. Romero*, 240 Ariz. 503, ¶ 7 (App. 2016) (quoting *State v. Leteve*, 237 Ariz. 516, ¶ 25 (2015)).

¶31 We agree with Collier that the prosecutor's argument misstated the law with respect to the reasonable-doubt standard. We also conclude that the prosecutor's subsequent use of the correct "firmly convinced" language did not, alone, cure the mistake. This is because the state never corrected its erroneous claim that the defense had misstated the standard. As the trial court noted, the objection was legally correct: the prosecutor misstated the law. Because defendants face grave consequences when they fail to timely object to trial error—namely, forfeiture of unobjected-to issues on appeal[5]—trial courts should avoid chilling defendants' efforts by refusing them the ability to timely object to perceived error.[6] Moreover, the court's refusal to entertain Collier's valid objection prevented him from contemporaneously objecting to the error when a sustained objection might have most effectively remedied it. This is because a contemporaneously sustained objection would have promptly directed the jurors' attention to the incorrect portion of the state's argument.

¶32 However, although the prosecutor's argument was improper, the error was harmless. A considerable body of case law establishes that much "[i]mproper argument can be cured by proper jury instructions." *State v. Jerdee*, 154 Ariz. 414, 418 (App. 1987). In considering whether a prosecutor's improper argument has been adequately cured, we consider

---

[5]*See State v. Totress*, 107 Ariz. 18, 20 (1971).

[6]We do not question the trial court's authority to constrain repetitive and frivolous objections designed to obstruct the flow of opposing counsel's summation. This was not the case here, when Collier's objection was both legally correct and relatively isolated.

the length and timing of the improper argument, as well as the remedial measures the trial court took after identifying an error. For example, we have found such error cured when a prosecutor followed an improper argument with a correct recitation of the state's burden of proof and the court provided correct instructions after the error. *State v. Hernandez*, 170 Ariz. 301, 308 (App. 1991) ("[T]he closing arguments and the jury instructions must be considered together in determining whether the prosecutor's statements constituted fundamental error."). Improper argument may also be cured if it was "an isolated statement in a lengthy, otherwise proper argument," and the court took corrective measures such as striking the improper statement from the record and instructing the jury to disregard it. *State v. Harrison*, 195 Ariz. 28, ¶ 30 (App. 1998).

¶33 We do not lightly assume error has been adequately cured when the improper argument at issue involves a dilution of the reasonable-doubt standard, "the bedrock upon which [our] criminal justice system stands." *State v. Bennett*, 165 P.3d 1241, 1248 (Wash. 2007); *see also In re Winship*, 397 U.S. 358, 363 (1970) (reasonable-doubt standard "provides concrete substance for the presumption of innocence—that bedrock 'axiomatic and elementary' principle whose 'enforcement lies at the foundation of the administration of our criminal law'" (quoting *Coffin v. United States*, 156 U.S. 432, 454 (1895))). But here, even though the state's case depended largely on the testimony of a less-than-stellar witness,[7] the parties' respective reasonable-doubt arguments elevated the status of the correct instruction in the jury's deliberations.

¶34 Both parties made the correct instruction the focal point of their arguments as to reasonable doubt. Immediately before explaining that standard, Collier emphasized for the jury the importance of following the trial court's instructions and explained the reasonable-doubt standard in a way that closely tracked the first paragraph of the correct instruction. The prosecutor's subsequent erroneous definition of reasonable doubt was itself presented as a dispute about what the correct instruction would say. When the prosecutor told the jury that "[t]he Judge isn't going to tell you that if you think that something is highly probable that that means that it is

[7]Harmless-error review requires "case-specific factual inquiry" to determine whether a particular error was harmless under all the circumstances of that particular case. *See State v. Bible*, 175 Ariz. 549, 588 (1993).

insufficient for a guilty verdict . . . . He's going to instruct you" otherwise, she made the jury instruction itself a focal point of her argument.

¶35 When the trial court correctly instructed the jury on reasonable doubt immediately after the state's rebuttal summation, that instruction contradicted the prosecutor's incorrect assertion. Specifically, the court both verbally and in writing instructed the jury that the state's proof must be higher than "highly probable" and that "proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt." We presume jurors follow the instructions of the court. *State v. Prince*, 226 Ariz. 516, ¶ 80 (2011). This presumption carries special weight when the parties' arguments have so expressly cued the jury to review the correct instruction.

¶36 Thus, the trial court's direct contradiction of the state's improper argument squarely and lucidly undermined the credibility of the prosecutor's description of the reasonable-doubt standard. We note, further, that the prosecutor's incorrect assertion was limited in scope and emphasis. A prosecutor's erroneous dilution of the reasonable-doubt standard is not a trivial matter. *See Sullivan v. Louisiana*, 508 U.S. 275, 278-82 (1993); *State v. Murray*, No. 2 CA-CR 2018-0313, ¶ 44, 2019 WL 4894121 (Ariz. Ct. App. Oct. 4, 2019) (Eckerstrom, J., concurring in part and dissenting in part). That standard is the lens through which the jury must consider each piece of evidence during its deliberations. But here, when the prosecutor's incorrect argument specifically cued the jury to review the proper instruction, we find beyond a reasonable doubt that the error had no effect on the jury's conclusion that Collier was guilty as charged.

Disposition

¶37 For the foregoing reasons, we affirm.